



ABC Ultimo Centre 700 Harris Street Ultimo NSW 2007 GPO Box 9994 Sydney NSW 2001 Tel. +61 2 8333 1500 abc.net.au

FOI APPLICATION

Dear	

I refer to your email of 23 June 2011 in which you sought access to documents under the *Freedom of Information Act 1982* (the FOI Act). Specifically, you have requested access to documents:

Related	to the	processing	of n	ny	complair	t to	the	ABC	about	breaches	of	ABC's	Editoria	1/
Policy					, ti	at c	ired	on						

I have decided to refuse access on the basis that any documents which contain information relating to the ABC's complaints handling processes are outside the scope of the FOI Act.

Under section 7(2) and Part 2 of Schedule II of the FOI Act, the ABC is exempt from the operation of the Act in relation to documents that relate "to its program material and datacasting content". The Federal Court of Australia considered the scope of this exclusion in *Australian Broadcasting Corporation v The University of Technology, Sydney* [2006] FCA964, and decided that the exclusion applies to "program material" (such as scripts and tapes) as well as any document that has a "direct or indirect relationship to program material". In that case, the documents being considered were letters of complaint about the ABC's programs and responses to them. The Court held that they were excluded from the operation of the FOI Act.

I am satisfied that the documents you have described have a relationship with the ABC's program material such that the request falls outside the operation of the FOI Act.

If you are dissatisfied with this decision you can apply for Internal or Information Commissioner (IC) Review. You do not have to apply for Internal Review before seeking IC Review. Information about your review rights is attached.

Yours sincerely

Judith Maude

FOI Coordinator

Direct line 02 8333 5316